

REMARKS

In the Office Action, the Examiner rejected claims 1-14 citing the publication entitled "Estimating Routing Congestion Using Probabilistic Analysis" (Lou et al., Proceedings of the 2001 International Symposium on Physical Design, pages 112-117, April 1-4, 2001). Attached is a Declaration of Attorney Under 37 C.F.R. § 1.13 which establishes invention of the subject matter of rejected claims 1-14 prior to the effective date of the reference, April 1-4, 2001. Therefore it is respectfully requested that the Examiner's rejection be withdrawn.

In the Office Action, the Examiner cited *Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986) which held that reasonable diligence is established if the attorney worked reasonably hard on the application during the continuous critical period and that if the attorney has a reasonable backlog of unrelated cases which he takes up in chronological order and carries out expeditiously, that is sufficient. In light of the *Bey* decision, Applicant respectfully asserts that the enclosed Declaration is sufficient to establish a date of invention at least as early as February 28, 2001, which pre-dates the Lou et al. reference. While an earlier invention date may be possible to prove, Applicant is taking the present approach to expedite prosecution of the present application and to advance same to issuance.

Should the enclosed Declaration not be deemed adequate to swear behind the Lou et al. reference, the Examiner is respectfully urged to call the undersigned attorney of record to discuss the Declaration.

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FROM TREXLER ETAL.

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Respectfully submitted,

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By:


James R. Foley, Reg. No. 39,979
TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 West Adams Street, 36th Floor
Chicago, Illinois 60603-6299
Tel: (312) 704-1890

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